

In The  
Supreme Court of the United States

October Term, 1990

WISCONSIN EDUCATION ASSOCIATION COUNCIL  
AND WEAC-PAC,

*Petitioners,*

vs.

THE WISCONSIN STATE ELECTIONS BOARD,  
PETER DOHR, FREDERIC MOHS, DON MOECKER,  
THOMAS GODAR, MARK SOSTARICH, ROBERT  
TURNER, JOHN NIEBLER, EVAN ZEPPUS, KEVIN  
KENNEDY AND THEIR OFFICERS, AGENTS,  
SERVANTS AND EMPLOYEES,

*Respondents.*

On Petition For A Writ Of Certiorari To The  
Supreme Court Of Wisconsin

PETITIONERS' REPLY BRIEF

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The respondents argue that the facts in the record are too contingent to justify the issuance of a writ of certiorari. For the purpose of deciding the federal constitutional issues in WEAC's petition for a writ of certiorari, there is only one constitutionally relevant fact which is

undisputed: the WEAC interns were to make political communications *solely* to WEAC members.

In its interpretation of § 11.29(1), Wis. Stats., the Wisconsin Supreme Court agreed with the respondents' position that such communications could be outside the exemption of the statute, and accepted the respondents' position that WEAC had to specify the nature and scope of its communications with the membership before it could decide the federal constitutional issues (App. 9-11). It is precisely this interpretation requiring inquiry into the content of the communications and permitting limitations on the union's political communications with its own members that is inconsistent with decisions of the Court. *United States v. C.I.O.*, 335 U.S. 106 (1948). The "contingent facts" argued by the respondents are the nature of these internal union communications. These facts are constitutionally irrelevant.

The respondents incorrectly describe the holdings of both *United States v. C.I.O.*, *supra*, and *Buckley v. Valeo*, 424 U.S. 1 (1976). The respondents argue C.I.O. does not stand for the proposition that union communications with its members can never be considered political contributions or disbursements. *Brief in Opposition*, 6-7. If the respondents mean to suggest C.I.O. permits limitations on the expenses incurred in making such communications, WEAC asserts just the opposite. Under C.I.O., Wisconsin cannot put limits on a union's ability to make political communications to its members. The respondents also argue incorrectly that *Buckley* permitted such limitations. No issue concerning the internal communications of a corporation, union or other association was decided in *Buckley*.

Finally, the respondents have made no effort to address the vagueness issue under the First and Fourteenth Amendments.

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### CONCLUSION

For the reasons stated above and in WEAC's original petition, a writ of certiorari should issue to review the decision and order of the Wisconsin Supreme Court.

Respectfully submitted,

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